



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

SMALL BUSINESS/SELF-EMPLOYED DIVISION

October 7, 2008

Control Number: SBSE 05-1008-047
Expires: October 7, 2009
IRM Impacted: IRM 5.10.1 - 5.10.5

MEMORANDUM FOR DIRECTORS, COLLECTION AREA OPERATIONS
DIRECTOR, ADVISORY, INSOLVENCY AND QUALITY

FROM: Frederick W. Schindler /s/ Frederick W. Schindler
Director, Collection Policy

SUBJECT: Interim Guidance for Requests of Perishable Goods Sale Approvals

The purpose of this memorandum is to issue interim guidance for the development and approval of perishable goods (PG) sale cases. Please ensure this information is distributed to all affected employees.

A *Perishable Goods Tool Kit* for use in revenue officer (RO) group meetings is being released simultaneously with this memorandum. These guidelines will become effective December 1, 2008.

Internal Revenue Manual (IRM) sections 5.10.1 through 5.10.5 provide the criteria for perishable goods seizure and sale cases. The IRM is being revised to clarify that approval under IRC section 6336 is for an expedited sale of perishable goods and not approval of a perishable goods seizure. For approval as a perishable goods sale, the assets will be required to meet one of the following criteria as set forth in I.R.C. § 6336:

- 1. Property is liable to perish:** The property must have a short life expectancy or limited shelf life, an expectation of spoilage, or will rapidly go bad, rot, decay, decompose, or expire. A determination must be made that the property cannot be kept and sold under normal I.R.C. § 6335 sale time frames.
- 2. Property is liable to become greatly reduced in price or value by keeping:** There must be an expectation that a great loss in the property's value will occur. The loss of value must be rapid in relation to the amount of time it would take to hold the sale under normal IRC § 6335 sale time frames.
- 3. Property cannot be kept without great expense:** A determination must be made to balance the cost of maintaining the assets, such as moving and storage costs,

against the net amount expected to be obtained at a sale conducted under normal IRC § 6335 sale provisions.

Additional guidance for perishable goods cases is as follows:

Pre-seizure 4-Way Conference: Upon identification of a possible PG sale, the RO group manager (GM) will schedule a pre-seizure 4-way conference with the RO, Property Appraisal and Liquidation Specialist (PALS) GM and PALS. The purpose of the conference is to discuss the RO's initial PG sale criteria determination, determine any additional seizure and sale case strategy development work, agree upon timeframes for both the PALS and the RO to accomplish additional work, and start development of a PG sales plan.

Location of Assets: An analysis of the location and storage of the assets, along with the related expenses, must be completed. Explore options of leaving the assets at the current location versus moving and storing them at another location. If the taxpayer is leasing the location where the assets are located, the determination must address the potential value and consideration of a seizure of the leasehold interest along with the other assets.

PALS' Appraisals: A PALS appraisal is required for all perishable goods sale cases. Development of a case strategy to include, when appropriate, leasehold interests, turn-key businesses and on-going concerns is an important part of the appraisal process.

Sale Plans: Responsibility for all PG sale plans, final criteria determination, and sale responsibilities will reside with the PALS function. The PALS will prepare and secure PALS GM concurrence for a *Perishable Goods Criteria and Sale Plan* memorandum for every PG case. The template for this memorandum is attached. The memorandum includes:

- Identification of the appropriate criteria and the analysis for which the sale should be conducted under IRC section 6336.
- Asset valuation to include appraisal and inventory list.
- Analysis of estimated expenses for both moving the assets to another location and storing on site for an IRC section 6335 sale.
- Analysis of estimated expenses and proceeds under an IRC section 6336 sale.
- A marketing plan to include consideration of pre and post sale marketing of the assets.
- Additional information for the RO consideration as to whether or not a *Consent or Writ of Entry* is required.
- An estimate of the timeframe from the point of seizure to sale.
- Resources required to conduct the sale, e.g. personnel, supplies, security, etc.
- Group manager concurrence signature line.

Upon approval, the memorandum and other documents will be forwarded to the RO for completion of the draft minimum bid, Form 4585, and inclusion in their seizure approval request file.

RO Approval Memorandum: The RO will prepare a memorandum addressed to the Area Director to include the information required in IRM sections 5.10.2.13(5) and 5.10.2.14 and include any other relevant case specific information necessary for the approval. The memorandum is made a part of the seizure approval request file and references to required information contained in the *Perishable Goods Criteria and Sale Plan* are appropriate.

Sale Responsibilities: PALS is responsible for all sale actions with assistance from the ROs, to include the post seizure inventory and valuation, preparation and delivery of the sale notices and *Asset Valuation Notice*, documentation of all sale actions, and completion of the post-sale paperwork. A template for the *Asset Valuation Notice* letter for service to the taxpayer prior to sale is attached.

In addition, the IRM will include case examples and language to clarify that changes to sale plans are appropriate when the facts and circumstances change after the seizure, e.g., conversion to an IRC section 6335 sale, rightful occupant agrees to lease premises to the Service, the assets are worth more than originally appraised, etc.

If you have any questions, please feel free to contact me, or a member of your staff may contact Senior Program Analyst, David Chapman.

Attachments

cc: www.irs.gov



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

SMALL BUSINESS/SELF-EMPLOYED DIVISION

MM, DD, YYYY

MEMORANDUM FOR NAME

Property Appraisal and Liquidation Specialist (PALS) Group Manager

FROM: Name
PALS

SUBJECT: Perishable Goods Criteria and Sale Plan

Following is the criteria selection and sale plan for a perishable goods sale approval:

Taxpayer name and address:

EIN:

Proposed Sale Location:

Information for RO consideration and determination as to whether *Consent* or *Writ of Entry* may be required:

Yes ____ No ____ (Provide short explanation)

Selection of Perishable Goods Sale Criteria:

The property:

____ is liable to perish (discuss the specific assets)

____ is liable to become greatly reduced in price or value by keeping (explain how)

____ cannot be kept without great expense – see analysis below

Asset description and valuation: (Attach copy of appraisal and inventory list)

Reduced Forced Sale Value: \$

Reductions used and reasons for reductions to arrive at forced sale and reduced forced sale value:

Complete the following for all cases:

IRC section 6335 estimated expenses to move and store off-site:

Vendor	Service	Estimate
	Moving	\$
	Storage	\$
	Advertising	\$
	Other (specify)	\$
Total all expenses:		\$

IRC section 6335 estimated expenses to store on-site: (Provide a short explanation if the asset(s) cannot be stored on-site):

Vendor	Service	Estimate
(Rightful Occupant)	Rent	\$
	Utilities	\$
	Advertising	\$
	Other (specify)	\$
Total all expenses:		\$

Analysis of IRC section 6335 sale proceeds after expenses:

IRC section 6336 perishable goods sale estimated expenses:

Vendor	Service	Estimate
(Rightful Occupant)	Rent	\$
	Utilities	\$
	Advertising	\$
	Other (specify)	\$
Total all expenses:		\$

Analysis of IRC section 6336 perishable goods sale proceeds after expenses:

Marketing Plan:

Sale will be scheduled within __ days after seizure (If sale will be conducted the same day, provide a short explanation of the reason)

Sale resources required (personnel, supplies, etc.):

Name and Signature
Title: PALS

Date

I concur with the criteria selection and the IRC section 6336 sale:

Name and Signature
Title: PALS Group Manager

Date



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

SMALL BUSINESS/SELF-EMPLOYED DIVISION

Date: Month XX, 20XX

Taxpayer Name
Address
City, State and Zip Code

Reference: Seizure and Sale of (Taxpayer)

Dear (Taxpayer):

The assets of (taxpayer or owner) located at (current location) have been seized for non-payment of Internal Revenue Service taxes. This letter is to advise you that as the Property Appraisal and Liquidation Specialist (PALS), I have inspected the assets and determined the Fair Market Value (FMV) to be \$XXXX. The attachment provides a detailed list of the assets.

I have set a date and time of sale at the above location as follows:

Date of Sale:
Time of Sale:

In order to avoid the sale of the seized property you must deliver a cashier's or certified check, cash or acceptable bond in the amount of the FMV shown above to Revenue Officer XXXX or myself prior to the sale. Revenue Officer XXXX may be contacted at (XXX) XXX-XXX and you may contact me at (XXX) XXX-XXXX.

Please feel free to call me if you have any questions. You will receive a report of the sale as soon as possible.

Name:
Employee Number: XX-XXXXX

Name:
Title: PALS Group Manager
Date:
Employee Number: XX-XXXXX

Attachment(s)